

48A C.J.S. Judges § 280

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Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

IX. Disqualification to Act

C. Grounds for Disqualification

2. Interest and Relationship

a. Interest

(3) Particular Interests

§ 280. Generally

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  42

The particular interest which will disqualify a judge varies with the circumstances and the purpose of the proceeding.

The rules, respecting disqualification for interest, have been applied in a variety of situations.¹ Depending on the circumstances of the case, in various instances, a disqualifying interest has been held shown,² while in other instances such interest has been held not present.³ Circumstances which might disqualify a judge in litigation brought to accomplish one purpose will not necessarily disqualify the same judge in litigation brought for another purpose.⁴ In the absence of statute, no disqualification arises merely from the existence of an indebtedness of the judge to one of the

parties,⁵ or by the indebtedness to the judge of an attorney for a party to the cause,⁶ where such indebtedness does not in any manner bear on the issues or effect an interest on the part of the judge in the outcome of the litigation.

A judge's proprietary interest in an insurance company is a disqualifying financial interest in a suit against the company only if the outcome of the suit could substantially affect the value of the interest.⁷ The ownership of a life insurance policy, when such ownership gives the judge an interest in the funds of the insurance company, disqualifies such judge from participating in or deciding any cause or proceeding to which the insurance company is a party.⁸ However, a judge is not disqualified to try an action on a life policy merely because the judge holds a policy in the same company where it does not appear that payment of the policy sued on would have any direct effect on any fund in which the judge might participate.⁹

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Footnotes

- 1 Ala.—*Ex parte Houston County*, 235 Ala. 304, 178 So. 535 (1938).

Ky.—*Potter v. Pikeville Nat. Bank*, 248 Ky. 596, 59 S.W.2d 529 (1933).

Conflict of interest between attorney and court
Where the possibility of a conflict of interest between an attorney and the court exists, the court does not abuse its discretion in disqualifying the attorney rather than recusing itself.

Ga.—*Young v. Champion*, 142 Ga. App. 687, 236 S.E.2d 783 (1977).

A.L.R. Library
Disqualification of judge based on property-ownership interest in litigation which consists of more than mere ownership of stock—state cases, 56 A.L.R.5th 783.
- 2 Ala.—*Ex parte Pope*, 26 Ala. App. 282, 158 So. 767 (1935).

Cal.—*Quatman v. Superior Court of Glenn County*, 64 Cal. App. 203, 221 P. 666 (3d Dist. 1923).

Possible employment of judge after retirement
A judge was required to recuse himself from an action where a person working on the judge's behalf mistakenly contacted the law firms representing the opposing parties in a pending antitrust action concerning possible employment of the judge after his retirement from the bench.

U.S.—*Pepsico, Inc. v. McMillen*, 764 F.2d 458 (7th Cir. 1985).
- 3 U.S.—*Utah-Idaho Sugar Co. v. Ritter*, 461 F.2d 1100 (10th Cir. 1972).

Ark.—*Liberty Mut. Ins. Co. v. Billingsley*, 256 Ark. 947, 511 S.W.2d 476 (1974).

Frequent flyer program
The judges on a panel in an appeal of an airline's suit alleging improper transactions involving frequent flyer awards were not required to recuse themselves on the ground that the judges had accumulated and used credits in the airline's frequent flyer program; the frequent flyer account did not represent a gift and was not

a financial interest in the airline, but rather, resulted from a consumer transaction in the ordinary course of doing business with a common carrier, and there was no reason to question the partiality of the judges.

U.S.—*Delta Air Lines, Inc. v. Sasser*, 127 F.3d 1296 (11th Cir. 1997).

4 Fla.—*State v. Chillingworth*, 95 Fla. 699, 116 So. 633 (1928).

Okla.—*Wacoche v. Moss*, 1930 OK 288, 143 Okla. 288, 288 P. 955 (1930).

5 Nev.—*Allum v. Valley Bank of Nevada*, 112 Nev. 591, 915 P.2d 895 (1996).

6 Mich.—*Schwartz Showell Corp. v. Bonfiglio*, 261 Mich. 407, 246 N.W. 162 (1933).

7 Ala.—*Ex parte Dooley*, 741 So. 2d 404 (Ala. 1999).

8 U.S.—*United Family Life Ins. Co. v. Barrow*, 452 F.2d 997 (10th Cir. 1971).

Cal.—*Carpenter v. Pacific Mut. Life Ins. Co. of Cal.*, 10 Cal. 2d 307, 74 P.2d 761 (1937), judgment aff'd, 305 U.S. 297, 59 S. Ct. 170, 83 L. Ed. 182 (1938).

9 Tex.—*Kansas City Life Ins. Co. v. Jinkens*, 202 S.W. 772 (Tex. Civ. App. Amarillo 1918).

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